RECENT CASES

ASSAULT AND BATTERY—PROVOCATION—MITIGATION.—BAUMGARTUER V. HODGDON, 116 N. W. 1030 (MINN.).—In an apparently friendly discussion as to the merits of a certain horse, carried on by the parties to this action and others,the plaintiff, in a good-natured way, remarked either that the defendant had "a thing of a horse," or that the horse was 'the damnedest looking horse" plaintiff ever saw. Whereupon, defendant flew into a passion and violently assaulted plaintiff, inflicting serious injuries to his person. *Held,* that the Trial Court in charging the jury that neither remark could be considered in mitigation of damages, committed no error.

Mere words spoken, however much they may be calculated to excite and irritate, do not justify an assault and battery. *Richardson v. Zuntz,* 26 La. Ann. 313. But they may constitute a ground for the reduction of damages. *Donnelly v. Harris et al.,* 41 Ill. 126; *Byers v. Horner,* 47 Md. 23. To be within this class, the words relied on must be such as to induce a presumption that the violence done was committed under immediate influence of the feelings and passions excited by them. *Chandler v. Newton,* 13 Ky. Law. Rep. 927; *Butt v. Gould,* 34 Ind. 552. In addition to the foregoing, it is essential that the words relied on must be such as to heat the blood or arouse the passions of a reasonable man. *Daniel v. Giles,* 108 Tenn. 242.

BIGAMY—INTENT—PEOPLE V. SPOOR, 85 N. E. 207 (ILL.).—*Held,* that in a prosecution for bigamy, a *bona fide* belief in the death or divorce of the first wife is no defense, as the criminal intent is inferred from the criminality of the act itself. Vickers, J., *dissenting.*

It is laid down in *Reynolds v. U. S.,* 98 U. S. 145, that ignorance of fact but not of law, may tend to show lack of criminal intent. That ignorance of law is no defence is well settled. *State v. Robins,* 28 N. C. 23; *In re Ven Pelt,* 1 City Hall Rec. 137. But as regards ignorance of fact as a defence to a prosecution for bigamy, the cases are in irreconcilable conflict. In England, it is well settled that on the principle of *actus non facit reum nisi meus sit rea,* an honest and reasonable belief in the existence of circumstances, which, if true, would make the act for which a prisoner is indicted an innocent one, is a good defense. *Hearne v. Garton,* 2 E. & E. 66. Some states in this country have adopted a like view. *Squire v. State,* 46 Ind. 459; *State v. Stank,* 9 Ohio Dec. 8. But in Massachusetts the English doctrine is repudiated, it being declared that the crime consists of doing the unlawful act, and criminal intent is not essential. *Commonwealth v. Hayden,* 163 Mass. 453. To the same effect are *Dotson v. State,* 62 Ala. 141; *State v. Hughes,* 58 Ia. 165.

BAILMENT—ACTIONS—PRESUMPTIONS AND BURDEN OF PROOF.—JOHNSON V. PERKINS, 62 S. E. 152 (GA.).—*Held,* that in all cases of bailment, after proof of loss, the burden of proof is on the bailee to show diligence.

The general rule in actions of negligence is that the burden is on the